
HOUSE BILL No. 1480

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-23-5-13; IC 33-38.

Synopsis: Judges' pensions. With respect to both the 1977 and the 1985 benefit systems of the judges' retirement fund: (1) adds four years of service to the schedule that determines the percentage of salary to which a retiree is entitled (ending at 26 years of service instead of 22 years); and (2) increases the maximum percentage to 64% after 26 years (instead of 60% after 22 years). Allows a person serving as a full-time magistrate on July 1, 2007, and requires a person who begins serving as a full-time magistrate after that date and before January 1, 2008, to become a participant in the judges' 1985 benefit system. Allows magistrates who are participants in the judges' 1985 benefit system to purchase, at full actuarial cost, service credit for prior service covered by an Indiana public employees' retirement fund. Changes the salary base that is used to determine benefits under the 1985 benefit system to the salary currently being paid for the last office held by the retiree (instead of the salary that was paid for that office at the time the retiree left service). Increases the monthly benefit payable to participants, survivors, and beneficiaries of the judges' 1985 benefit system under the same conditions as the monthly benefit is increased for participants, survivors, and beneficiaries of the judges' 1977 benefit system. Provides that the changes in the benefit structure of both the 1977 and the 1985 benefit systems apply only to persons who retire, become disabled, or die after June 30, 2007 (and their surviving spouses and dependent children). Authorizes a participant with at least eight years of creditable service in the judges' retirement system who is also vested in the public employees' retirement fund (PERF) to elect to use not more than ten years of PERF service credit to qualify for a

(Continued next page)

Effective: July 1, 2007.

Kuzman

January 23, 2007, read first time and referred to Committee on Ways and Means.



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retirement benefit from the judges' retirement system and waive the right to a retirement benefit from PERF. Requires the PERF board to transfer to the judges' retirement system the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at 65 years of age that is attributable to the participant who makes the election. Provides that the PERF service credit may not be used to compute the participant's retirement benefit from the judges' retirement system. Establishes the judges' defined contribution fund (defined contribution fund). Provides that an individual who first begins service as a judge or full-time magistrate after December 31, 2007, is a participant in the defined contribution fund. Provides that the PERF board shall administer the defined contribution fund. Requires a participant in the defined contribution fund to make contributions equal to 6% of the salary the participant receives for services as judge or magistrate. Allows a participant in the defined contribution fund to make additional contributions not to exceed the maximum allowed under Internal Revenue Code rules. Requires the state to make contributions to the defined contribution fund on behalf of each participant equal to 15% of the salary received by the participant for service as a judge or magistrate.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1480

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-23-5-13 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. **(a) Except as**
3 **provided in subsection (b) or (c),** a magistrate may:
4 (1) participate in the public employees' retirement fund as
5 provided in IC 5-10.3; or
6 (2) elect to remain in the judges' retirement system under
7 IC 33-38 if the magistrate had previously participated in the
8 system.
9 **(b) A person who:**
10 **(1) is serving as a full-time magistrate on July 1, 2007, and**
11 **makes an election under IC 33-38-8-10.5; or**
12 **(2) begins serving as a full-time magistrate after July 1, 2007,**
13 **and before January 1, 2008;**
14 **shall, beginning January 1, 2008, participate in the judges' 1985**
15 **benefit system under IC 33-38-8.**



(c) A person who first begins service as a full-time magistrate after December 31, 2007, shall participate in the judges' defined contribution fund under IC 33-38-8.5.

SECTION 2. IC 33-38-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. As used in this chapter, "participant" means, before January 1, 2008, a judge who participates in the fund. After December 31, 2007, "participant" means a judge or full-time magistrate who participates in the fund.

SECTION 3. IC 33-38-6-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. A reference to the judges' retirement system under this chapter:

(1) is considered a reference to the judges' retirement fund under this article; and

(2) is not considered a reference to the judges' defined contribution fund under IC 33-38-8.5.

SECTION 4. IC 33-38-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A person who completed at least eight (8) years of service as a judge before July 1, 1953, may become a participant in the fund and be subject to this chapter if the person qualifies for benefits under section 11 of this chapter. A person who is a judge on July 1, 1953, shall become a participant in the fund and be subject to this chapter, beginning on July 1, 1953, unless twenty (20) days before July 1, 1953, the judge files with the board a written notice of election not to participate in the fund.

(b) A person who:

(1) becomes a judge after July 1, 1953, and before September 1, 1985; and

(2) is not a participant in the fund;

becomes a participant in the fund and is subject to this chapter, beginning on the date the person becomes a judge, unless within twenty (20) days after that date the judge files with the board a written notice of election not to participate in the fund. An election filed under this subsection is irrevocable.

(c) A person who irrevocably:

(1) elects not to participate in the fund; or

(2) withdraws from the fund under section 13 of this chapter; is ineligible to participate and to receive benefits under this chapter.

(d) Participation of a judge in the fund continues until the date on which the judge:

(1) becomes an annuitant;

(2) dies; or

(3) accepts a refund;

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but a person is not required to pay into the fund during any period that the person is not serving as a judge, except as otherwise provided in this chapter.

(e) A participant is considered to have made a one (1) time irrevocable salary reduction agreement of six percent (6%) of each payment of salary that a participant would otherwise have received for services as a judge.

(f) The auditor of state and the county auditor shall pay and credit to the fund the amounts described in subsection (e) as provided in IC 33-38-6-21 and IC 33-38-6-22. However, no amounts shall be paid on behalf of a participant for more than ~~twenty-two (22)~~ **twenty-six (26)** years.

SECTION 5. IC 33-38-7-11, AS AMENDED BY P.L.28-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) A participant whose employment as judge is terminated, regardless of cause, is entitled to a retirement annuity beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date the annuity begins is not:

(A) before the date of final termination of employment by the participant; or

(B) the date thirty (30) days before the receipt of the participant's written application by the board.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed as:

(A) a judge (as defined in IC 33-38-6-7); or

(B) a magistrate under IC 33-23-5.

(c) A participant:

(1) who:

(A) elects to accept retirement after June 30, 1977; and

(B) is at least sixty-five (65) years of age; or

(2) who:

(A) elects to accept retirement after June 30, 1999;

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(B) is at least fifty-five (55) years of age; and
 (C) meets the requirements under subsection (b)(2)(B);
 is entitled to an annual retirement benefit as calculated in subsection
 (d).

(d) The annual retirement benefit for a participant who meets the
 requirements of subsection (c) equals the product of:

- (1) the salary being paid for the office that the participant held at
 the time of the participant's separation from service; multiplied by
- (2) the percentage prescribed in the following table:

TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%
23	61%
24	62%
25	63%
26 or more	64%

If a participant has a partial year of service in addition to at least eight
 (8) full years of service, an additional percentage shall be calculated by
 prorating between the applicable percentages, based on the number of
 months in the partial year of service. A participant who elects to accept
 retirement before July 1, 1977, is entitled to an annual retirement
 benefit that equals the average of the benefit computed under this
 subsection and the benefit the participant would have received under
 IC 33-38-6 as in effect on June 30, 1977.

(e) If the annual retirement benefit of a participant who began
 service as a judge before July 1, 1977, as computed under subsection
 (d), is less than the amount the participant would have received under

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IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to receive the greater amount as the participant's annual retirement benefit instead of the benefit computed under subsection (d).

(f) Except as provided in subsections (b)(2)(B) and (d), if a participant who elects to accept retirement after June 30, 1977, has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

- (1) participants who are separated from service because of permanent disability;
- (2) survivors of participants who die while in service after August 1, 1992; or
- (3) survivors of participants who die while not in service but while entitled to a future benefit.

(g) A participant who is permanently disabled is entitled to an annual benefit equal to the product of:

- (1) the salary being paid for the office that the participant held at the time of separation from service; multiplied by
- (2) the percentage prescribed in the following table:

TABLE B

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%
23	61%
24	62%
25	63%
26 or more	64%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by

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prorating between the applicable percentages, based on the number of months in the partial year of service.

(h) The surviving spouse or surviving child or children, as designated by the participant, of a participant who has qualified before July 1, 1977, to receive the retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, shall, upon the death of such participant, be entitled to an annuity in an amount equal to the greater of:

(1) the sum of:

(A) two thousand dollars (\$2,000); plus

(B) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of the participant's death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits prior to the participant's death; or

(2) the amount determined under the following table:

TABLE C

Year	Amount
July 1, 1995, to June 30, 1996	\$10,000
July 1, 1996, to June 30, 1997	\$11,000
July 1, 1997, and thereafter	\$12,000

(i) If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled to an annuity in an amount equal to the greater of:

(1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits before death; or

(2) the amount determined under TABLE C in subsection (h)(2).

(j) If a participant:

(1) dies after June 30, 1983; and

(2) on the date of the participant's death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) was permanently disabled; or

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(D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit; the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection (h)(2) or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection (f).

(k) Notwithstanding subsection (j), if a participant:

(1) died after June 30, 1983, and before July 1, 1985; and

(2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a permanently disabled participant entitled to benefits under subsection (i).

(l) The annuity payable to a surviving child or children under subsection (h), (i), or (j) is subject to the following:

(1) The total monthly benefit payable to a surviving child or children is equal to the same monthly annuity that was to have been payable to the surviving spouse.

(2) If there is more than one (1) child designated by the participant, then the children are entitled to share the annuity in equal monthly amounts.

(3) Each child entitled to an annuity shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(4) Upon the cessation of payments to one (1) designated child, if there is at least one (1) other child then surviving and still entitled to payments, the remaining child or children shall share equally the annuity. If the surviving spouse of the participant is surviving upon the cessation of payments to all designated children, the surviving spouse will then receive the annuity for the remainder of the surviving spouse's life.

(5) The annuity shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to an annuity due to their age at the time of death of the participant.

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(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 6. IC 33-38-7-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20. (a) As used in this section, "retirement fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

(b) This section applies only to a person who:

- (1) is a judge participating under this chapter;**
- (2) before becoming a judge was employed in a position that resulted in the person being a member of the retirement fund;**
- (3) received credited service in the retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 18 or 19 of this chapter;**
- (4) has attained vested status in the retirement fund for the employment described in subdivision (2), but has not begun receiving a benefit from the retirement fund; and**
- (5) has at least eight (8) years of service credit in the judges' retirement system.**

(c) If a person becomes a participant in the judges' 1977 benefit system under this chapter, the person may elect credit for the service described in subsection (b)(3) solely for the purpose of meeting the age plus years of service requirement described in section 11(b)(2)(B) of this chapter, if the following conditions are met:

- (1) The prior service was credited under the retirement fund.**
- (2) The maximum amount of service that a person may elect to transfer under this section is ten (10) years.**
- (3) The person waives the right to a retirement benefit from the retirement fund based on the service transferred under this section.**

(d) If a participant makes an election under subsection (c), the board shall transfer from the retirement fund to the judges' 1977 benefit system the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the participant.

(e) The service for which an election is made under this section

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1 may not be used as years of service for the purpose of computing
 2 a participant's retirement benefit under section 11(d) of this
 3 chapter.

4 SECTION 7. IC 33-38-8-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies
 6 only to an individual who:

7 (1) begins service as a judge after August 31, 1985, and before
 8 January 1, 2008;

9 (2) is serving as a full-time magistrate on July 1, 2007, and
 10 makes an election under section 10.5 of this chapter; or

11 (3) begins service as a full-time magistrate after July 1, 2007,
 12 and before January 1, 2008.

13 SECTION 8. IC 33-38-8-10 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A person who:

15 (1) begins service as a judge after August 31, 1985, and before
 16 January 1, 2008; and

17 (2) is not a participant in the fund;

18 shall become a participant in the fund.

19 (b) A person who:

20 (1) is serving as a full-time magistrate on July 1, 2007; and

21 (2) makes an election under section 10.5 of this chapter;

22 is, beginning January 1, 2008, a participant in the judges' 1985
 23 benefit system under this chapter.

24 (c) A person who begins service as a full-time magistrate after
 25 July 1, 2007, and before January 1, 2008, is, beginning January 1,
 26 2008, a participant in the judges' 1985 benefit system under this
 27 chapter.

28 SECTION 9. IC 33-38-8-10.5 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2007]: Sec. 10.5. A person who is serving as
 31 a full-time magistrate on July 1, 2007, may elect to become a
 32 member of the judges' 1985 benefit system under this chapter. An
 33 election under this section:

34 (1) must be made in writing;

35 (2) must be filed with the board, on a form prescribed by the
 36 board, before October 1, 2007; and

37 (3) is irrevocable.

38 SECTION 10. IC 33-38-8-11 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A participant
 40 shall make contributions to this fund of six percent (6%) of each
 41 payment of salary received for services as judge. However, the
 42 employer may elect to pay the contribution for the participant as a

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pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. However, a contribution is not required:

(1) because of any salary received after the participant has contributed to the fund for ~~twenty-two (22)~~ **twenty-six (26)** years; or

(2) during any period that the participant is not serving as judge.

SECTION 11. IC 33-38-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) A participant who:

(1) ceases service:

(A) as a judge; or

(B) **after December 31, 2007, as a judge or full-time magistrate;**

other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from ~~the~~ **the** date of the withdrawal application or in monthly installments as the participant may elect.

SECTION 12. IC 33-38-8-13, AS AMENDED BY P.L.28-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. A participant whose employment as ~~a~~ **a** judge, **or after December 31, 2007, as a judge or full-time magistrate,** is terminated is entitled to a retirement benefit computed under section 14 of this chapter, beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date on which the benefit begins is not:

(A) before the date of final termination of employment of the participant; or

(B) the date thirty (30) days before the receipt of the application by the board.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight

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(8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed as:

(A) a judge (as defined in IC 33-38-6-7); or

(B) a magistrate under IC 33-23-5.

SECTION 13. IC 33-38-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who:

(1) applies for a retirement benefit; and

(2) is at least:

(A) sixty-five (65) years of age; or

(B) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter;

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:

(1) the salary ~~that was being paid to~~ **being paid to** for the office that the participant **held** at the time of **the participant's** separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%

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1	21	59%
2	22 or more	60%
3	23	61%
4	24	62%
5	25	63%
6	26 or more	64%

7 If a participant has a partial year of service in addition to at least eight
8 (8) full years of service, an additional percentage shall be calculated by
9 prorating between the applicable percentages, based on the number of
10 months in the partial year of service.

11 (d) Except as provided in section 13(2)(B) of this chapter and
12 subsection (b)(2)(B), if a participant who applies for a retirement
13 benefit has not attained sixty-five (65) years of age, the participant is
14 entitled to receive a reduced annual retirement benefit that equals the
15 benefit that would be payable if the participant were sixty-five (65)
16 years of age reduced by one-tenth percent (0.1%) for each month that
17 the participant's age at retirement precedes the participant's sixty-fifth
18 birthday. This reduction does not apply to:

- 19 (1) participants who are separated from service because of
- 20 permanent disability;
- 21 (2) survivors of participants who die while in service after August
- 22 1, 1992; or
- 23 (3) survivors of participants who die while not in service but while
- 24 entitled to a future benefit.

25 SECTION 14. IC 33-38-8-16 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Benefits
27 provided under this section are subject to IC 33-38-6-13 and section 20
28 of this chapter.

29 (b) A participant who becomes permanently disabled is entitled to an
30 annual benefit that equals the product of:

- 31 (1) the salary ~~that was being paid to~~ **for the office that** the
- 32 participant **held** at the time of **the participant's** separation from
- 33 service; multiplied by
- 34 (2) the percentage prescribed in the following table:

35	Participant's Years	Percentage
36	of Service	
37	0-12	50%
38	13	51%
39	14	52%
40	15	53%
41	16	54%
42	17	55%

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1	18	56%
2	19	57%
3	20	58%
4	21	59%
5	22 or more	60%
6	23	61%
7	24	62%
8	25	63%
9	26 or more	64%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

SECTION 15. IC 33-38-8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) This section applies to a person who:

(1) is:

(A) a judge; or

(B) after December 31, 2007, a judge or full-time magistrate; participating under this chapter;

(2) before becoming a judge serving in a position described in subdivision (1), was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1985 benefit system under section 1 of this chapter, credit for prior service by the judge, or after December 31, 2007, by the judge or full-time magistrate, as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the prior service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge or full-time magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge or full-time magistrate would have contributed if the judge or full-time magistrate had

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1 been a member of the judges' 1985 benefit system during the prior
2 service.

3 (c) If the requirements of subsection (b)(2) and (b)(3) are not
4 satisfied, a participant is entitled to credit only for years of service after
5 the date of participation in the **judges'** 1985 benefit system.

6 (d) An amortization schedule for contributions paid under subsection
7 (b)(2) or (b)(3) must include interest at a rate determined by the board.

8 (e) The following provisions apply to a person described in
9 subsection (a):

10 (1) A minimum benefit applies to participants receiving credit in
11 the judges' 1985 benefit system from service covered by the public
12 employees' retirement fund. The minimum benefit is payable at
13 sixty-five (65) years of age or when the participant is at least
14 fifty-five (55) years of age and meets the requirements under
15 section 13(2)(b) of this chapter and equals the actuarial equivalent
16 of the vested retirement benefit that is:

17 (A) payable to the member at normal retirement under
18 IC 5-10.2-4-1 as of the day before the transfer; and

19 (B) based solely on:

20 (i) creditable service;

21 (ii) the average of the annual compensation; and

22 (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the
23 annuity savings account of the transferring member as of the
24 day before the transfer.

25 (2) If the requirements of subsection (b)(2) and (b)(3) are satisfied,
26 the board shall transfer from the public employees' retirement fund
27 to the judges' 1985 benefit system the amount credited to the
28 annuity savings account and the present value of the retirement
29 benefit payable at sixty-five (65) years of age or at least fifty-five
30 (55) years of age under section 13(2)(b) of this chapter that is
31 attributable to the transferring participant.

32 (3) The amount the state and the participant must contribute to the
33 judges' 1985 benefit system under subsection (b) shall be reduced
34 by the amount transferred to the judges' 1985 benefit system by the
35 board under subdivision (2).

36 (4) If the requirements of subsection (b)(2) and (b)(3) are satisfied,
37 credit for prior service in the public employees' retirement fund as
38 a full-time referee, full-time commissioner, or full-time magistrate
39 is waived. Any credit for the prior service under the judges' 1985
40 benefit system may be granted only under subsection (b).

41 (f) To the extent permitted by the Internal Revenue Code and the
42 applicable regulations, the judges' 1985 benefit system may accept, on

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behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 16. IC 33-38-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) This section applies only to a person who:

(1) is:

(A) a judge; or

(B) after December 31, 2007, a judge or full-time magistrate; participating under this chapter;

(2) before ~~becoming a judge~~ serving in a position described in subdivision (1) was a member of a public employees' retirement fund;

(3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 22 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit

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1 system under this chapter, credit for service described in subsection (a)
2 shall be granted under this chapter by the board if:

3 (1) the prior service was credited under a public employees'
4 retirement fund; and

5 (2) the judge **or full-time magistrate** pays in a lump sum or in a
6 series of payments determined by the board, not exceeding five (5)
7 annual payments, the amount determined by the actuary for the
8 **judges'** 1985 benefit system as the total cost of the service.

9 (c) If the requirements of subsection (b) are not satisfied, a
10 participant is entitled to credit only for years of service after the date of
11 participation in the **judges'** 1985 benefit system.

12 (d) An amortization schedule for contributions paid under this
13 section must include interest at a rate determined by the board.

14 (e) If the requirements of subsection (b) are satisfied, the appropriate
15 board shall transfer from the retirement fund described in subsection
16 (a)(2) to the judges' 1985 benefit system the amount credited to the
17 judge's **or full-time magistrate's** annuity savings account and the
18 present value of the retirement benefit payable at sixty-five (65) years
19 of age that is attributable to the transferring participant.

20 (f) The amount a participant must contribute to the judges' 1985
21 benefit system under subsection (b) shall be reduced by the amount
22 transferred to the judges' 1985 benefit system by the appropriate board
23 under subsection (e).

24 (g) If the requirements of subsection (b) are satisfied, credit for prior
25 service in a public employees' retirement fund is waived.

26 (h) To the extent permitted by the Internal Revenue Code and the
27 applicable regulations, the judges' 1985 benefit system may accept, on
28 behalf of a participant who is purchasing permissive service credit
29 under subsection (b), a rollover of a distribution from any of the
30 following:

31 (1) A qualified plan described in Section 401(a) or Section 403(a)
32 of the Internal Revenue Code.

33 (2) An annuity contract or account described in Section 403(b) of
34 the Internal Revenue Code.

35 (3) An eligible plan that is maintained by a state, a political
36 subdivision of a state, or an agency or instrumentality of a state or
37 political subdivision of a state under Section 457(b) of the Internal
38 Revenue Code.

39 (4) An individual retirement account or annuity described in
40 Section 408(a) or Section 408(b) of the Internal Revenue Code.

41 (i) To the extent permitted by the Internal Revenue Code and the
42 applicable regulations, the judges' 1985 benefit system may accept, on

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behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 17. IC 33-38-8-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24. (a) As used in this section, "retirement fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

(b) This section applies only to a person who:

- (1) is a judge participating under this chapter;**
- (2) before becoming a judge, was employed in a position that resulted in the person being a member of the retirement fund;**
- (3) received credited service in the retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 22 or 23 of this chapter;**
- (4) has attained vested status in the retirement fund for the employment described in subdivision (2), but has not begun receiving a benefit from the retirement fund; and**
- (5) has at least eight (8) years of service credit in the judges' retirement system.**

(c) If a person becomes a participant in the judges' 1985 benefit system under this chapter, the person may elect credit for the service described in subsection (b)(3) solely for the purpose of meeting the age plus years of service requirement described in section 13(2)(B) of this chapter, if the following conditions are met:

- (1) The prior service was credited under the retirement fund.**
- (2) The maximum amount of service that a person may elect to transfer under this section is ten (10) years.**
- (3) The person waives the right to a retirement benefit from the retirement fund based on the service transferred under this section.**

(d) If a participant makes an election under subsection (c), the board shall transfer from the retirement fund to the judges' 1985 benefit system the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the participant.

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(e) The service for which an election is made under this section may not be used as years of service for the purpose of computing a participant's retirement benefit under section 14 of this chapter.

SECTION 18. IC 33-38-8-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 25. Subject to section 20 of this chapter, after June 30, 2007, the monthly benefit payable under this chapter to participants, survivors, and beneficiaries shall be increased under the same conditions as the monthly benefit is increased for members, survivors, and beneficiaries of the 1977 judges' benefit system established under IC 33-38-7.**

SECTION 19. IC 33-38-8.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 8.5. Judges' Defined Contribution Fund

Sec. 1. (a) This chapter applies only to an individual who first begins service as a judge or full-time magistrate after December 31, 2007.

(b) An individual described in subsection (a) shall become a participant in the defined contribution fund.

Sec. 2. As used in this chapter, "defined contribution fund" refers to the judges' defined contribution fund established by section 8 of this chapter.

Sec. 3. As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

Sec. 4. As used in this chapter, "judge" means a person who serves as a regular judge or justice of one (1) or more of the following courts:

(1) Supreme court.

(2) Court of appeals.

(3) Indiana tax court.

(4) Circuit court of a judicial circuit.

(5) Superior court of a county.

(6) Criminal court of a county having a separate criminal court.

(7) Probate court of a county having a separate probate court.

(8) Juvenile court of a county having a separate juvenile court.

(9) Municipal court of a county.

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(10) County court of a county.

Sec. 5. As used in this chapter, "participant" means an individual who participates in the defined contribution fund.

Sec. 6. As used in this chapter, "PERF board" refers to the board of trustees of the public employees' retirement fund.

Sec. 7. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties for the participant's service as a judge or full-time magistrate, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

Sec. 8. (a) The judges' defined contribution fund is established.

(b) The defined contribution fund shall be administered by the PERF board. The defined contribution fund is a trust, separate and distinct from all other entities, maintained for the purpose of paying benefits to participants and their beneficiaries and paying the costs associated with administering the defined contribution fund.

(c) The PERF board shall adopt rules under IC 4-22-2 necessary for the administration of the defined contribution fund.

Sec. 9. The defined contribution fund must satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the defined contribution fund. In order to meet those requirements, the defined contribution fund is subject to the following provisions, notwithstanding any other law:

(1) The PERF board shall distribute the corpus and income of the defined contribution fund to participants and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the defined contribution fund may be used for or diverted to a purpose other than the exclusive benefit of participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or any other reason may not be applied to increase the benefits a participant or beneficiary would otherwise receive under this chapter.

(4) If the defined contribution fund is terminated, or if all contributions to the defined contribution fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the defined contribution fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations

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under that Section. In order to meet those requirements, the defined contribution fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin not later than December 31 of the calendar year immediately following the calendar year in which the participant dies.

(6) The PERF board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of a participant's beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefits and contributions specified by Section 415 of the Internal Revenue Code. If a participant's benefits under this chapter would exceed those maximum benefits and contributions, the participant contribution made under this chapter shall be reduced as necessary.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The PERF board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

Sec. 10. (a) The PERF board shall:

(1) determine eligibility for and make payments of benefits under this chapter;

(2) administer the defined contribution fund in accordance with the powers and duties granted in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6; and

(3) provide by rule for the implementation of this chapter.

(b) A determination by the PERF board may be appealed under IC 4-21.5.

(c) The powers and duties of:

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(1) the director and the actuary of the PERF board;

(2) the treasurer of state;

(3) the attorney general; and

(4) the auditor of state;

with respect to the defined contribution fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(d) Money in the defined contribution fund may be commingled with the public employees' retirement fund for investment purposes.

(e) The defined contribution fund records of individual participants and participants' information are confidential, except for the name and contributions made by and on behalf of a participant.

Sec. 11. (a) The defined contribution fund consists of the following:

(1) Each participant's contributions to the defined contribution fund.

(2) Contributions made by the state to the defined contribution fund.

(3) All gifts, grants, devises, and bequests in money, property, or other form made to the defined contribution fund. Gifts, grants, devises, and bequests shall be divided equally among all participants' accounts.

(4) All earnings on investments or on deposits of the defined contribution fund.

(5) All contributions or payments to the defined contribution fund made in a manner provided by the general assembly. Contributions and payments, other than participants' contributions and contributions made by the state on behalf of participants, shall be divided equally among all participants' accounts.

(b) Each participant shall be credited individually with:

(1) the participant's contributions to the defined contribution fund under section 12 of this chapter, which shall be credited to the participant's account;

(2) the contributions made to the defined contribution fund on behalf of the participant under section 13 of this chapter, which shall be credited to the participant's account; and

(3) the net earnings on the participant's account.

Sec. 12. (a) A participant shall make contributions to the defined contribution fund equal to six percent (6%) of each payment of salary received by the participant for services as a judge or

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1 full-time magistrate. However, the employer may elect to pay the
 2 contribution for the participant as a pickup under Section 414(h)
 3 of the Internal Revenue Code.

4 (b) In compliance with rules established by the PERF board, a
 5 participant may make contributions to the participant's account in
 6 addition to the contributions required under subsection (a). The
 7 total amount of contributions that may be made to a participant's
 8 account each payroll period under this subsection may not exceed
 9 the maximum amount allowable under the applicable Internal
 10 Revenue Code rules.

11 (c) A participant's contributions, other than contributions paid
 12 by the employer on behalf of the participant, shall be deducted
 13 from the monthly salary of the participant by the auditor of state
 14 and by the county auditor and credited to the defined contribution
 15 fund. However, a contribution is not required during any period
 16 that the participant is not serving as either a judge or full-time
 17 magistrate.

18 Sec. 13. The state shall make contributions annually to the
 19 defined contribution fund on behalf of each participant. The
 20 amount of the contributions made on behalf of a participant must
 21 equal fifteen percent (15%) of the salary received by the
 22 participant for the participant's service as a judge or full-time
 23 magistrate.

24 Sec. 14. (a) The PERF board shall establish investment programs
 25 within the defined contribution fund, based on the following
 26 requirements:

27 (1) The PERF board shall maintain at least one (1) investment
 28 program that is an indexed stock fund and one (1) investment
 29 program that is a bond fund.

30 (2) The programs should represent a variety of investment
 31 objectives.

32 (3) The programs may not permit a participant to withdraw
 33 money from the participant's account, except as provided in
 34 this chapter.

35 (4) All administrative costs of each investment program shall
 36 be paid from the earnings on that program.

37 (5) A valuation of each participant's account must be
 38 completed as of the last day of each quarter.

39 (b) A participant shall direct the allocation of the amount
 40 credited to the participant among the available investment
 41 programs, subject to the following conditions:

42 (1) A participant may make a selection or change an existing

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selection under rules established by the PERF board. The PERF board shall allow a participant to make a selection or change any existing selection at least once each quarter.

(2) The PERF board shall implement the participant's selection not later than the next business day following receipt of the participant's selection by the PERF board. This date is the effective date of the participant's selection.

(3) A participant may select any combination of the available investment programs.

(4) A participant's selection remains in effect until a new selection is made.

(5) On the effective date of a participant's selection, the PERF board shall reallocate the participant's existing balance or balances in accordance with the participant's direction, based on the market value of the participant's balance or balances on the effective date.

(6) If a participant does not make an investment selection of an investment program, the participant's account shall be invested in the PERF board's general investment fund.

(7) All contributions to the participant's account shall be allocated not later than the last day of the quarter in which the contributions are received and reconciled in accordance with the participant's most recent effective direction.

(c) When a participant transfers the amount credited to the participant from an investment program to another investment program, the amount credited to the participant shall be valued at the market value of the participant's investment, as of the day before the effective date of the participant's selection. When a participant retires, becomes disabled, dies, or withdraws from the defined contribution fund, the amount credited to the participant is the market value of the participant's investment as of five (5) business days preceding the participant's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(d) The PERF board shall determine the value of each investment program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall exclude the employer contributions and employee contributions received during the quarter ending on the current allocation date.

(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and

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employee contributions received during that preceding quarter.

(3) The market value as of the immediately preceding quarter end date shall exclude benefits paid from the defined contribution fund during the quarter ending on the current quarter end date.

Sec. 15. (a) A participant who no longer is serving as either a judge or a full-time magistrate is entitled to withdraw the balance in the participant's account in the defined contribution fund. The withdrawal shall be made not later than the required beginning date under the Internal Revenue Code. The amount available for the withdrawal is the amount specified in section 14(c) of this chapter.

(b) The withdrawal amount shall be paid in a lump sum, a partial lump sum, a monthly annuity as purchased by the PERF board, or a series of monthly installment payments over sixty (60), one hundred twenty (120), or one hundred eighty (180) months, as elected by the participant. The forms of annuity and installments shall be established by the PERF board by rule, in consultation with the system's actuary. The PERF board shall give participants information on these forms of payments and the effects of various dates of withdrawal.

Sec. 16. (a) This section applies to a participant who dies:

- (1) while serving as a judge or full-time magistrate; or
- (2) after terminating service as a judge or full-time magistrate and before withdrawing the balance in the participant's account from the defined contribution fund.

(b) The balance in the participant's account shall be paid to a beneficiary or the beneficiaries designated on a form prescribed by the PERF board. The amount paid shall be the amount specified in section 14(c) of this chapter. If there is no properly designated beneficiary, or if no beneficiary survives the participant, the participant's accounts shall be paid to:

- (1) the surviving spouse of the participant;
- (2) if there is no surviving spouse, a surviving child or the surviving children of the participant; or
- (3) if there is no surviving spouse and no surviving child, the estate of the participant.

(c) Amounts payable under this section shall be paid in a lump sum, a partial lump sum, a monthly annuity as purchased by the PERF board, or a series of monthly installment payments over sixty (60) months, as elected by the recipient. The forms of annuity

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1 and installments available shall be established by the PERF board
2 by rule, in consultation with the system's actuary.

3 Sec. 17. The amount required to make the state's employer
4 contributions required by this chapter is annually appropriated
5 from the state general fund.

6 Sec. 18. A participant or beneficiary may not assign any payment
7 under this chapter except for premiums on a life, hospitalization,
8 surgical, or medical group insurance plan maintained in part by a
9 state agency.

10 Sec. 19. The PERF board shall adopt rules establishing
11 procedures for making loans to a participant from the participant's
12 employee contribution account and employer contribution account
13 within the defined contribution fund. Rules adopted under this
14 section must comply with the requirements of Section 72(p) of the
15 Internal Revenue Code and must apply to each participant in the
16 defined contribution fund, regardless of whether the participant is
17 serving as a judge or full-time magistrate at the time of the loan. A
18 loan made in accordance with rules adopted under this section is
19 not considered receipt of retirement benefits for purposes of
20 IC 5-10-8-1.

21 Sec. 20. Notwithstanding any other provision of this chapter, to
22 the extent required by Section 401(a)(31) of the Internal Revenue
23 Code and any amendments and regulations related to Section
24 401(a)(31) of the Internal Revenue Code, the defined contribution
25 fund shall allow participants to elect a direct rollover of eligible
26 distributions to another eligible retirement plan.

27 Sec. 21. (a) To the extent permitted by the Internal Revenue Code
28 and applicable regulations, the defined contribution fund may
29 accept, on behalf of any active participant, a rollover distribution
30 from any of the following:

31 (1) A qualified plan described in Section 401(a) or Section
32 403(a) of the Internal Revenue Code.

33 (2) An annuity contract or account described in Section 403(b)
34 of the Internal Revenue Code.

35 (3) An eligible plan that is maintained by a state, a political
36 subdivision of a state, or an agency or instrumentality of a state
37 or political subdivision of a state under Section 457(b) of the
38 Internal Revenue Code.

39 (4) An individual retirement account or annuity described in
40 Section 408(a) or Section 408(b) of the Internal Revenue Code.

41 (b) Any amounts rolled over under subsection (a) must be
42 accounted for in a rollover account that is separate from the

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participant's account in the defined contribution fund.

(c) A participant may direct the investment of the participant's rollover account into any investment option that the PERF board makes available to the participant's rollover account.

(d) A participant may withdraw the participant's rollover account from the defined contribution fund in a lump sum at any time before retirement. At retirement, the participant may withdraw the participant's rollover account in accordance with the retirement options that are available for the participant's account.

Sec. 22. Notwithstanding any provision of this chapter, the defined contribution fund shall be administered in a manner consistent with the following:

(1) The Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(2) The Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(3) The Americans with Disabilities Act (42 U.S.C. 12101 et seq.).

SECTION 20. [EFFECTIVE JULY 1, 2007] (a) IC 33-38-7-10 and IC 33-38-7-11, both as amended by this act, apply only to:

(1) participants in the judges' 1977 retirement, disability, and death benefit system who retire, become disabled, or die after June 30, 2007; and

(2) surviving spouses and dependent children of participants described in subdivision (1).

(b) IC 33-38-8-11, IC 33-38-8-14, and IC 33-38-8-16, all as amended by this act, apply only to:

(1) participants in the judges' 1985 retirement, disability, and death benefit system who retire, become disabled, or die after June 30, 2007; and

(2) surviving spouses and dependent children of participants described in subdivision (1).

SECTION 21. [EFFECTIVE JULY 1, 2007] IC 33-38-7-20, as added by this act, applies to a participant in the judges' 1977 retirement, disability, and death benefit system who retires after June 30, 2007.

SECTION 22. [EFFECTIVE JULY 1, 2007] IC 33-38-8-24, as added by this act, applies to a participant in the judges' 1985 retirement, disability, and death benefit system who retires after June 30, 2007.

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